

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In re Amendment of Section 73.202(b)
of the Commission's Rules. Table of Allotments,
PM Broadcast Stations

(ASH FORK, ARIZONA ET AL.)

DOCKET FILE COPY ORIGINAL

MM Docket No. 02-12

RM-10356, RM-10551;

RM-10552, RM-10553;

and RM-10554

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To: The Assistant Chief, Audio Division. Office of Broadcast License Policy, Media Bureau

SUPPLEMENT TO FURTHER REPLY COMMENTS

NPR Phoenix, LLC (*NPR*), the licensee of station KEDJ. Channel 280C2, Gilbert.

Arizona. Facility ID No. 54944, hereby tenders a supplement to its Further Reply Comments in this proceeding. Acceptance of this Supplement will simplify this proceeding and conserve the staff's resources. Thus, acceptance of this Supplement is warranted.

1. NPR timely advanced a Counterproposal to the Notice of Proposed Rule Making (the *NPRM*), 67 Fed. Reg. 5961 (2002). Rather than merely allotting Channel 285A as a first local service to Ash **Fork**, as the *NPRM* proposed, NPR asked the FCC to, among other things, to substitute Channel 280C1 for Channel 280C2 at Gilbert, Arizona, and to modify the license of NPR's station KEDJ accordingly.

2. On the deadline for Comments and Counterproposals in this proceeding, Sierra H Broadcasting, Inc. filed a Petition for Rule Making seeking the relicensing and relocation of station KAJM, Channel 282C, Payson, Arizona. Facility ID No. 52818. The proposed new community of license was Lake Montezuma, Arizona. Sierra H's reference point short-spaced

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the NPR's reference point for Channel 280C1 at Gilbert. Because of this, the FCC: (a) accepted Sierra H's Petition for Rule Making as a Counterproposal in this docket; and (b) assigned to Sierra H's Petition the rule-making number RM-10552.

3. Spectrum Scan, LLC (SS), the licensee of station KRCY(FM), Channel 224C, Dolan Springs, Arizona. Facility ID No. 27982, also timely advanced a Counterproposal in this proceeding. The FCC accepted SS's filing as a Counterproposal in this docket, and assigned to SS's Petition the rule-making number RM-10553. The FCC also accepted a Petition for Rule Making filed by Deborah Comley as a Counterproposal in this docket and has assigned to her Petition the rule-making number KM-10554.

4. Shortly after the deadline for Comments, NPR and SS became aware of each others' Counterproposals in this proceeding, and resolved to devise a global resolution that would accommodate all (known) expressions of interest timely filed in the Ash Fork proceeding. NPR and SS advanced such a Global Resolution in Joint Reply Comments filed on the original deadline for Reply Comments set by the NPRM (April 2, 2002). The Global Resolution had two components: an NPR Component: and an SS Component. The two were not mutually exclusive. and neither depended on the other.

5. At the time. neither NPR nor SS was aware that Sierra H had. on March 18 — the Comment deadline in this proceeding — filed its Lake Montezuma Petition. Neither licensee was thus aware that the Lake Montezuma proposal conflicted with the KEDJ element of the NPR Component of their global resolution. Subsequently, in another proceeding (Cameron. Arizona. MB Docket No. 02-73), after NPR had learned of the existence of the Lake Montezuma filing,

NPR noted that the Commission could easily resolve the spacing conflict by using an alternative reference point for Channel 282C at Lake Montezuma.

6. In Further Reply Comments. filed in this (Ash Fork) proceeding on September 10, 2002. NPR pointed out technical (line-of-sight and city-grade) problems with the Lake Montezuma proposal. Given these defects. NPR asserted. the staff must return Sierra H's Lake Montezuma Petition as inadvertently accepted for rule making. In the alternative. NPR asserted that. if the staff determined not to return Sierra H's petition, the staff must, at a minimum, impose a different site restriction than Sierra H has proposed, so as to clear NPR's proposal.

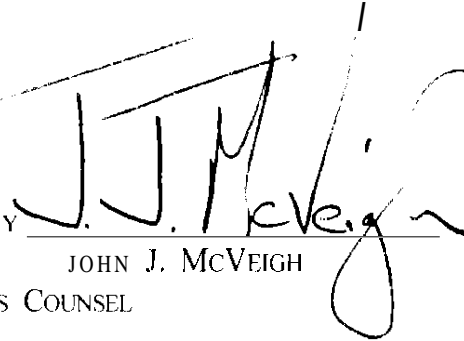
7. Also on September 10, Sierra H filed a Petition to Dismiss its Lake Montezuma proposal. See Attachment A. Therefore, the arguments that NPR made against the Lake Montezuma proposal and the means of accommodating that proposal that NPR advanced, in the alternative, in its September 10 Further Reply Comments, are moot. NPR therefore seeks to withdraw those aspects of its further Reply Comments. NPR also requests that the staff promptly dismiss the Lake Montezuma proposal as the proponent requested, and asks that the Commission promptly adopt the Global Resolution advanced by NPR and Spectrum Scan.

CONCLUSION

The FCC should promptly adapt a Report and Order and take other action consistent herewith.

Respectfully submitted.

NPR PHOENIX, LLC

BY 
JOHN J. McVEIGH
ITS COUNSEL

JOHN J. McVEIGH, ATTORNEY 41 LAM
12101 BLUE PAPER TRAIL
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DATE:: FEBRUARY 6, 2003

ATTACHMENT A

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

Amendment of Section 73.202(b))	
Table of Allotments)	MM Docket No. 02-12
FM Broadcast Stations)	RM-10552
(Lake Montezuma and Payson, Arizona))	

To Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

PETITION TO DISMISS

Sierra H Broadcasting, Inc. ("Sierra H"), licensee of Station KAJM(FM), Payson, Arizona, by its counsel and pursuant to Section 1.401 of the Commission's Rules, hereby petitions to dismiss its Petition for Rulemaking in the above-referenced proceeding requesting that the Commission amend the FM Table of Allotments to: (i) delete Channel 282C at Payson, Arizona, and (ii) allot Channel 282C at Lake Montezuma, Arizona as that community's first local service.

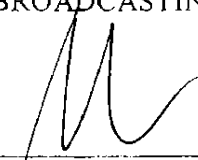
After reviewing the various proposals and counterproposals in MM Docket No. 02-12, Sierra H does not believe that its Counterproposal will result in a preferred allotment of FM broadcast stations. Accordingly, it hereby petitions for the dismissal of its own proposal and

supports the requests submitted by NPR Phoenix, LLC and Spectrum Scan. LLC.'

Respectfully submitted,

SIERRA H BROADCASTING, INC

By:



Barry A. Friedman
Thompson Hine LLP
1920 N Street, NW
Suite 800
Washington, DC 20036
(202) 973-2789

September 10, 2002

' This Petition **is** being filed unilaterally **by** Sierra H Pursuant to Section 1.420(j) of the Commission's Rules, Sierra H is submitting the requisite Declaration advising as to the terms of Sierra H's action

DECLARATION

I, Kenneth R. Brentlinger, declare, under penalty of perjury and pursuant to Section 1.16 of the Rule 8 of the Federal Communications Commission, that:

1. I am the Secretary of Sierra H Broadcasting, Inc. ("Sierra H"), the licensee of Station KAJM(FM), Payson, Arizona, and the petitioner in RM-10552 ("Petition") for a change in the Federal Communications Commission's Table of Allotments to change the community of the license for FM Channel 28.2C, from Payson to Lake Montezuma, Arizona, and to modify the license of KAJM accordingly.

2. Sierra H is now requesting that the FCC dismiss the Petition and terminate the proceedings commenced as a result thereof.

3. Neither Sierra H nor any of its principals has entered into any agreements concerning the requested dismissal of the Petition or received or been promised any money or other consideration or reimbursement of expenses for requesting the dismissal of the Petition.

Executed at Sconsdale, Arizona, on the 10 day of September, 2002



Name: Kenneth R. Brentlinger

Title: Secretary *w*

CERTIFICATE OF SERVICE

I, Bany A. Friedman, do hereby certify that I have, on this 10th day of September, 2002, served a copy of the foregoing. "Petition to Dismiss," on the following parties by first-class mail, postage prepaid:

John J. McVeigh, **Esq.**
12101 Blue Paper Trail
Columbia, Maryland 21044

Harry F. Cole, **Esq.**
Fletcher, Heald & Hildreth PLC
11th Floor
1200 N. 17th Street
Arlington, Virginia 22209

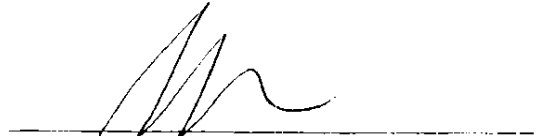
Ms. Deborah Cowley
11204 Bowley Drive
Louisville, Kentucky 40223

Scott C. Cinnamon, **Esq.**
1090 Vermont Avenue. N.W.
Suite 800
Washington, D.C. 20005

Route 66 Broadcasting, L.L.C.
812 East Beale Street
Kingman, Arizona 86491

Prescott Radio Partners
9222 Loma Street
Villa Park, California 92861

Mr. William H. Gormly
P.O. **Box 51**
Des Moines, New Mexico 84818

A handwritten signature in black ink, appearing to be 'B. Friedman', is written over a horizontal line.

CERTIFICATE OF SERVICE

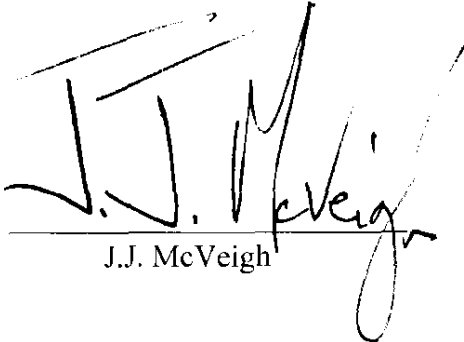
I hereby certify that I have this Sixth day of February, 2003, sent a copy of the foregoing **SUPPLEMENT TO FURTHER REPLY COMMENTS** by first class United States mail, postage prepaid, to:

Scott C. Cinnamon, Esq. Law Offices of Scott C. Cinnamon, PLLC 1090 Vermont Avenue, Northwest, Suite 800 Washington, D.C. 20005 Counsel to Liberty Ventures III, LLC Petitioner in MM Docket 02-12	MB Media Group, Inc. 251 Hilton Drive St. George, Utah 84770 Licensee. Station KXFF
Matthew H. McCormick Reddy, Begley & McCormick, LLP 2175 K Street, NW, Suite 350 Washington, DC 20037 Counsel to Route 66 Broadcasting, L.L.C. Licensee, Radio Station KZKE(FM)	Denise B. Moline, Esq. PMB No. 215 1212 South Napier Boulevard Napierville, Illinois 60540 Counsel to Tusayan Broadcasting Company, Inc. Licensee, Station KSGC(FM)
Prescott Radio Partners 9222 Loma Street Villa Park, California 92861 Licensee, Radio Station KFPB(FM)	Lawrence N. Cohn, Esq. Cohn & Marks 1920 N Street Northwest, Suite 300 Washington, D.C. 20036-1622 Counsel to Commenter, MM Docket No. 01-264
Mr. Charles Crawford 4553 Bordeaux Avenue Dallas, Texas 75205 Petitioner, MM Docket No. 01-264	Deborah Comley 11204 Bowley Drive Louisville, Kentucky 40223 Proponent, New(FM), Beaver, Utah Counterproposer in MM Docket No. 02-12

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ASH FORK CERTIFICATE OF SERVICE
(CONTINUED)

<p>Harry F. Cole, Esq. Fletcher, Heald & Hildreth PLC 1300 North Seventeenth Street. Eleventh Floor Arlington, Virginia Counsel to Spectrum Scan, LLC Counterproposer in MM Docket No. 02-12</p>	<p>Barry A. Friedman, Esq. Thompson Hine LLP 1920 N Street Northwest. Suite 800 Washington, D.C. 20036 Counsel to Sierra H. Broadcasting, Inc. Counterproposer in MM Docket No. 02-1 and Counsel to Entravision Holdings, LLC, successor-in-interest to Spectrum Scan, LLC</p>
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J.J. McVeigh